

SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JASON FOLLOWELL,

Plaintiff,

v.

CITY OF ARANSAS PASS, et al.,

Defendants.

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CAUSE NO. 2:24-cv-00055

PLAINTIFFS' ADVISORY TO COURT
CONCERNING RECENT 5TH CIRCUIT OPINION

On February 7, 2025, the Fifth Circuit Court of Appeals issued its opinion in *Biggers v. Massingill*, No. 23-11023, 2025 U.S. App. LEXIS 2901 (5th Cir. Feb. 7, 2025). Plaintiffs provide this advisory to this Court because they believe this opinion is relevant to this Court's consideration of the instant matter.

This opinion reiterates the following:

1. "Unlike instances where this court has upheld qualified immunity, Biggers squarely alleged that Massingill's invocation of the decorum rule was a mere pretext to silence his views. If proved, that would clearly violate the First Amendment." *Id.* at 5.
2. "The First Amendment secures Biggers's right to be free from viewpoint discrimination in a limited public forum" like an open meeting. *Id.* at *4.
3. "Biggers alleged he was silenced by Massingill—not because he was disrupting those meetings—but because Massingill disagreed with Biggers's views about the HCCC. That is a textbook violation of the First Amendment." *Id.* at *4.

Respectfully submitted,

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby affirm that on this 7th day of March, 2025, the foregoing document was filed with the Court's CM/ECF electronic filing system and that a copy of said document was served upon all parties of record.

/s/ CJ Grisham

CJ Grisham